



Greater Hartford Legal Aid

Judiciary Committee public hearing, March 14, 2016

Testimony submitted by Lucy Potter, Attorney

Greater Hartford Legal Aid

Raised Bill No. 5530, An Act Concerning the Repayment of Child Support Arrearages
Position: OPPOSE, OR AMEND AS SUGGESTED BELOW

I am an attorney at Greater Hartford Legal Aid and have served on the past five Child Support Guidelines Commissions. I have also represented many people in child support matters over the past twenty-five years.

Child support should be based on a person's ability to pay. The sanctions for not paying child support are very serious: loss of license, intercept of tax refunds and jail, to name a few. The Child Support and Arrearage Guidelines define what constitutes ability to pay for both current support and for arrearages. The Guidelines that were just issued in August of 2015 require that arrearage payments continue at the rate of the current support order when the obligation for current support ends.

To the extent this bill merely reiterates the change already made by the Guidelines Commission, it is unnecessary.

The bill also appears to suggest, however, that arrearage payments are to continue at the rate of the current support order, even if the obligor's ability to pay has decreased. To this extent, the bill would violate the principles of the Guidelines and should be rejected. A person should always have the right to request modification of an order to bring it into line with his or her ability to pay. Conn. Gen. Stats. 46b-86. Such a determination must necessarily be made on an individual basis in light of the particular facts in the particular case. A magistrate or judge also retains the ability to order lump sum payments toward an arrearage, where warranted, as the Guidelines specifically state.

To make H.B. 5530 consistent with the principles of the Child Support and Arrearage Guidelines, The word "higher" in lines 29-31 of the bill should be changed to read:

In addition, the court or a family support magistrate, after hearing, may determine that such arrearage be repaid at a higher or lower weekly rate based on the obligor's ability to pay. [or "...at a different weekly rate..."]

This preserves the rule that the full order will continue, without reduction or increase, unless there is a hearing at which the magistrate changes it up or down, based upon the obligor's ability to pay.

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